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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,743	11/21/2003	Matias Duarte	4676P045	1792

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EXAMINER	
SHINGLES, KRISTIE D	
ART UNIT	**PAPER NUMBER**
2141	

DATE MAILED: 09/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/718,743	DUARTE ET AL.	
	Examiner	Art Unit	
	Kristie Shingles	2141	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *05 July 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-10 and 23-40* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-10 and 23-40* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *7/5/05*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Per Applicant's Request for Continued Examination:

Claim 3 has been amended. Claims 11-22 have been cancelled.
Claims 29-40 are new.
Claims 1-10 and 23-40 are pending.

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/5/2005 has been entered.

Claim Objections

2. Per claim **3**, the proposed typographic corrections filed 7/5/2005 have been accepted by the Examiner. Correction of the claim language will not be held in abeyance.

Response to Arguments

3. Applicant's arguments filed 7/5/2005 have been fully considered but they are not persuasive.

A. **Regarding Claims 1 and 23,** Applicant argues (see Remarks, page 13) in substance that the cited prior art of record, *Sutton et al* (US Publication 2004/0185922) is "entirely silent as to physical orientation".

A.1. The Examiner respectfully disagrees. It is the Examiner's position that *Sutton et al* teach physical orientation as disclosed in the claim language. *Sutton et al* disclose three operational modes that are associated with the positioning of the panel (Abstract, page 1 paragraph 5). The position of the panel of the electronic device constitutes as a physical orientation, wherein the panel is a physical component of the device and orientation of the panel's position determines the device's mode operation (page 2 paragraphs 0017-0019, page 4 paragraph 0031). *Sutton et al* clearly states that the device operates "in a first mode when configured in the first position...operates in a second mode when configured in a second position...and operates in a third mode when configured in a third position" (page 2 paragraphs 0011 and 0020). Furthermore, the illustrations in the drawings indicate altering or re-positioning the device's physical orientation when configuring the device in positions relative to the operating modes (Figures 2A, 2B, 3B and 3C). Therefore, Applicant's arguments are non-persuasive and the rejections of Claims 1 and 23 under *Sutton et al* are maintained.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this paragraph made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under paragraph 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in paragraph 351(a) shall have the effects for purposes of this subparagraph of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims **1, 9, 10, 23 and 29-37** are rejected under 35 U.S.C. 102(e) as being anticipated by *Sutton et al* (US Publication 2004/0185922).

Regarding Claim 1, *Sutton et al* teach a data processing device and apparatus having a first operational mode and a second operational mode, the data processing device comprising: a plurality of control elements to perform a first plurality of defined functions when the data processing device is in the first operational mode and to perform a second plurality of defined function when the data processing device is in the second operational mode (page 1 paragraphs 0006 and 0009, page 2 paragraph 0011, page 3 paragraphs 0021, 0023 and 0025), wherein the first operational mode is associated with a first physical orientation of the data processing device and the plurality of control elements and the second operational mode is associated with a second physical orientation of the data processing device and the plurality of control elements (page 1 paragraph 0005 and page 2 paragraph 0020).

Regarding Claim 23, *Sutton et al* teach a data processing device having a data entry mode and a telephony mode comprising: a first group of control elements to perform data entry functions within a first physical orientation when the data processing device is in the data entry mode (page 1 paragraphs 0005-0006, page 2 paragraph 0020, page 3 paragraph 0023) and to perform numeric telephony keypad functions within a second physical orientation when the data processing device is in the telephony mode (page 1 paragraph 0009, page 2 paragraph 0011, page 3 paragraphs 0021 and 0025).

Regarding Claim 29, *Sutton et al* teach a data processing device comprising: a plurality of control elements associated with a first plurality of functions whenever the device is in a first orientation and further associated, in the alternate, with a second plurality of functions whenever the device is in a second orientation (page 1 paragraphs 0005-0006 and 0009, page 2 paragraphs 0011 and 0020, page 3 paragraphs 0021, 0023 and 0025); an operation mode selection module coupled to the plurality of control elements (page 2 paragraph 0020); and at least one operational mode sensor coupled to the operation mode selection module, the at least one operational mode sensor to generate an output responsive to detecting a correct operating mode (page 1 paragraph 0009, page 2 paragraph 0020, page 3 paragraph 0025, page 4 paragraph 0029).

Claim 35 contains limitations that are substantially similar to claim 29 and is therefore rejected under the same basis.

Regarding claim 9, *Sutton et al* teach the data processing device as in claim 1 wherein the plurality of control elements includes a control wheel for moving a graphical cursor element when rotated in either the first operational mode and/or the second operational mode (page 1, paragraph 0009 and page 3, paragraph 0022).

Regarding claim 10, *Sutton et al* teach the data processing apparatus as in claim 9 wherein the plurality of control elements includes a plurality of keys and/or buttons (page 3, paragraph 0022 and 0027).

Regarding claim 30, *Sutton et al* teach the data processing device of claim 29 wherein the correct operating mode is associated with a selected one of the first and second orientations (page 2 paragraphs 0011 and 0020).

Regarding claim 31, *Sutton et al* teach the data processing device of claim 30 wherein the operation mode selection module is responsive to the output of the at least one operational mode sensor (page 2 paragraphs 0019 and 0020, page 3 paragraph 0025).

Regarding claim 32, *Sutton et al* teach the data processing device of claim 31 wherein the operation mode selection module is operable to detect an orientation selected from the first and second orientations (page 1 paragraph 0009, page 2 paragraph 0020, page 3 paragraph 0025, page 4 paragraph 0029).

Regarding claim 33, *Sutton et al* teach the data processing device of claim 32 wherein the operational mode sensor comprises a mechanical trigger (page 2 paragraph 0020).

Claim 36 is substantially similar to claim 33 and is therefore rejected under the same basis.

Regarding claim 34, *Sutton et al* teach the data processing device of claim 32 wherein the operational mode sensor comprises a motion sensor (page 2 paragraphs 0012 0020, page 3 paragraphs 0023 and 0028, page 4 paragraphs 0029).

Claim 37 is substantially similar to claim 34 and is therefore rejected under the same basis.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in paragraph 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims **2 and 24** are rejected under 35 U.S.C. 103(a) as being unpatentable over *Sutton et al* (US Publication 2004/0185922) in view of *England* (USPN 6,483,445).

Regarding claims 2 and 24, *Sutton et al* teaches the data processing device as in claim 1 and 23 as applied above. Yet *Sutton et al* fail to explicitly teach further comprising: a display having a viewable display screen for rendering images generated by the data processing device, the display screen rendering images in a first orientation when the data processing device is in the first operational mode and rendering images in a second orientation when the data processing device is in the second operational mode. *England* teaches further comprising: a display having a viewable display screen for rendering images generated by the data processing device, the display screen rendering images in a first orientation when the data processing device is in the first operational mode and rendering images in a second orientation when the data processing device is in the second operational mode (col.3 lines 13-21).

Therefore it would have been obvious to one of ordinary skill in the art to modify the multipurpose data processing apparatus of *Sutton et al* by further comprising: a display having a viewable display screen for rendering images generated by the data processing device, the display screen rendering images in a first orientation when the data processing device is in the first operational mode and rendering images in a second orientation when the data processing device is in the second operational mode because this enables the user to still view the display in an upright position regardless of the orientation of the device and thus makes the device more user friendly.

8. Claims **3-8 and 25-28** are rejected under 35 U.S.C. 103(a) as being unpatentable over *Sutton et al* (US Publication 2004/0185922) in view of *Okawa* (US Publication 2004/0259599).

Regarding claim 3, *Sutton et al* teach the data processing device as in claim 1, as applied above. Yet *Sutton et al* fail to explicitly teach the control elements comprise: a first glyph representing a designated one of the first specified functions, the first glyph being highlighted when the data processing device is in the first operational mode; and a second glyph representing a designated one of the second specified functions, the first glyph being highlighted when the data processing device is in the first operational mode. However, *Okawa* teaches wherein one or more of the control elements comprise: a first glyph representing a designated one of the first specified functions, the first glyph being highlighted when the data processing device is in the first operational mode; and a second glyph representing a designated one of the second specified functions, the second glyph being highlighted when the data processing device is in the second operational mode (Figures 7a and 7b, page 1 paragraph 0017, page 3 paragraph 0070, page 4 paragraph 0072-0073).

Therefore it would have been obvious to one of ordinary skill in the art to modify the multipurpose data processing apparatus of *Sutton et al* by the control elements comprising: a first glyph representing a designated one of the first specified functions, the first glyph being highlighted when the data processing device is in the first operational mode; and a second glyph representing a designated one of the second specified functions, the first glyph being highlighted when the data processing device is in the first operational mode because this reduces the space required for all functional keys of a multipurpose device and thus allows the device to be smaller and more portable.

Regarding claim 4, *Sutton et al* and *Okawa* teach the data processing device as in claim 3 as applied above, *Okawa* further teaches wherein each of the first glyphs are positioned on each of the control elements in a first orientation corresponding to the first orientation of the data processing device and each of the second glyphs are positioned on each of the control elements in a second orientation corresponding to the second orientation of the data processing device (Figures 7a and 7b, page 1 paragraph 0017, page 3 paragraph 0070, page 4 paragraph 0072-0073).

Regarding claim 27, *Sutton et al* teach the data processing apparatus as in claim 23, as applied above. Yet *Sutton et al* fail to explicitly teach wherein one or more of the first group of control elements comprise: a first glyph having a first glyph orientation associated with the first orientation; and a second glyph having a second glyph orientation associated with the second orientation. *Okawa* teaches wherein one or more of the first group of control elements comprise: a first glyph having a first glyph orientation associated with the first orientation; and a second glyph having a second glyph orientation associated with the second orientation (Figures 7a and 7b, page 1 paragraph 0017, page 3 paragraph 0070, page 4 paragraph 0072-0073).

Therefore it would have been obvious to one of ordinary skill in the art to modify the multipurpose data processing apparatus of *Sutton et al* by wherein one or more of the first group of control elements comprise: a first glyph having a first glyph orientation associated with the first orientation; and a second glyph having a second glyph orientation associated with the second orientation because this reduces the space required for all functional keys of a multipurpose device and thus allows the device to be smaller and more portable.

Regarding claim 28, *Sutton et al* and *Okawa* teach the data processing apparatus, *Okawa* further teaches wherein the data processing device highlights the first glyph when in the first operational mode and highlights the second glyph when in the second operational mode (Figures 7a and 7b, page 1 paragraph 0017, page 3 paragraph 0070, page 4 paragraph 0072-0073).

Regarding claims 5, 25 and 26, *Sutton et al* and *Okawa* teach the data processing device as in claim 4, *Sutton et al* further teach the device wherein the first orientation is rotated 90 degrees relative to the second orientation (page 2 paragraph 0012, page 3 paragraph 0024, page 4 paragraph 0028).

Regarding claim 6, *Sutton et al* and *Okawa* teach the data processing device as in claim 3, *Sutton et al* further teach wherein the first operational mode comprise: a data entry mode and wherein the second operational mode comprises a telephony mode wherein the data processing device performs telephony-based functions (page 1 paragraph 0006 and 0009, page 2 paragraph 0011).

Regarding claim 7, *Sutton et al* teaches the data processing device as in claim 6 wherein, when in the telephony mode, the second specified function for a group of the control elements is that of a numeric keyboard for entering telephone numbers (page 1 paragraph 0005, page 3 paragraph 0021).

Regarding claim 8, *Sutton et al* teach the data processing device as in claim 7 wherein, when in the data entry mode, the first specified function for a group of the control elements is that of a cursor control keypad (page 3 paragraph 0022-0023 and 0027).

9. Claims **38-40** are rejected under 35 U.S.C. 103(a) as being unpatentable over *Sutton et al* (US Publication 2004/0185922) in view of *Bonansea et al* (USPN 6,868,283).

Regarding claim 38, *Sutton et al* teach the data processing device of claim 35 as applied above, yet fail to explicitly teach the device wherein the operation mode selection module is responsive to an output of the operational mode sensor and the operational mode sensor comprises a logical trigger. However, *Bonansea et al* teach the selection of operating modes based on sensing logical triggers such as incoming calls or scheduling event indicators (Abstract, col.1 line 55-col.2 line 21, col.8 lines 11-30).

It would have been obvious to one of ordinary skill in the art to modify the multipurpose data processing apparatus of *Sutton et al* by allowing for logical triggers to sense incoming events and thereby change the operating mode of the device in order to address these events. It is well known and obvious to handle incoming phone calls or scheduled event alarms as probable interrupts—worthy of the user's attention; wherein the operational mode of the device may be changed in order to notify the user of such interrupts and to allow the user to answer or interact with the calls/events accordingly.

Regarding claim 39, *Sutton et al* and *Bonansea et al* teach the data processing device of claim 38, *Bonansea et al* further teach the device of claim 38 wherein the logical trigger comprises receiving a phone call (col.1 line 55-col.2 line 21, col.8 lines 11-39).

Regarding claim 40, *Sutton et al* and *Bonansea et al* teach the data processing device of claim 38, *Bonansea et al* further teach the device of claim 38 wherein the logical trigger comprises a calendar event (col.3 line 64-col.4 line 1, col.7 lines 1-10).

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: *Otsuka et al* (USPN 6,941,160), *Ausems et al* (USPN 6,434,403), *Boesen* (USPN 6,542,721), *Nguyen* (USPN 5,797,089), *Gioscia et al* (USPN 6,850,780) and *Soini et al* (USPN 6,611,693).

This is a continuation of applicant's earlier Application No. 10/718,743. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kristie Shingles whose telephone number is 571-272-3888. The examiner can normally be reached on Monday-Friday 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 571-272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kristie Shingles
Examiner
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